



U.S. Department of Justice

Antitrust Division

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April 6, 2015

The Honorable James Donato
United States District Judge
Courtroom 11, 19th Floor
United States Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

Re: IN RE CAPACITORS ANTITRUST LITIGATION, No. 3:14-cv-03264-JD

Dear Judge Donato:

I write on behalf of the United States, an intervenor in this civil action. As the Court is aware, a federal grand jury empanelled in this district is currently investigating allegations of anticompetitive conduct among manufacturers of capacitors, the same conduct alleged in these consolidated civil cases. In October 2014, the United States moved to intervene for the limited purpose of seeking a stay of discovery (Dkt. 240). The Court granted the motion to intervene and ordered a stay of discovery, currently set to expire on April 15, 2015 (Dkt. 309).

In the minute order following the October 29, 2014 initial case management conference (Dkt. 309), the Court addressed defendants' production to plaintiffs of what the government understands to be documents prepared in the ordinary course of business that defendants have produced to the grand jury. The Court wrote, "The United States agrees that there will soon come a time when the United States would have no objection to such a production. The United States is to promptly inform the Court when that time comes." Now, that time has come and the United States does not object to this document production.

As a general matter for civil discovery, and going forward, the United States remains concerned about discovery of communications with the government or the grand jury. Prying into such communications may chill communication with the government and also risks disclosing prematurely -- and unnecessarily -- the focus of the grand jury, to the prejudice of the criminal proceedings. Responding to such concern, the civil plaintiffs and defendants, after discussion with the attorneys for the government, have stipulated to a protective order that is today lodged with the Court, substantially satisfying the government's concern.

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The Court in the minute order also wrote, “Discovery will only be stayed until April 15, 2015, at which time the U.S. may request an extension, if needed.” At this point, the United States does not seek an extension, but if future developments warrant, may seek relief from the Court in the nature of either a limited stay of discovery or protective order.

Sincerely,

/s/

Howard J. Parker
Trial Attorney
DOJ Antitrust Division